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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,389	10/26/2005	Martin Baechle	PC10504US	6048

7590 03/13/2007  
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EXAMINER
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NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/13/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/524,389

Applicant(s)

BAECHLE ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 7-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/14/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 505. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. Moreover, the drawings appear to be informal and are suited for the purpose of examination only. Please submit formal drawings.

### ***Specification***

3. The substitute specification submitted 2/14/05 has been approved.

### ***Claim Objections***

4. Claims 7-12 are objected to because of the following informalities: claim 7 claims a bleeder bottle for a plurality of bleeder connections. Perhaps this claimed feature should read --connecting a bleeder bottle to each wheel bleeder connection--.

Appropriate correction is required.

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 7-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7-12 of copending Application No. 10/524,460. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 7-12 of the instant

application are substantially the same as claims 7-12 of the co-pending application except for the step of connecting a bleeder bottle to the wheel bleeder connections provided on the wheel brakes. Hence, the scope of claims 7-12 of the co-pending application is broader and would have encompassed the scope of claims 7-12 of the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Allowable Subject Matter***

7. Claims 7-12 are allowed. It is found that the steps of “activating the pump and delivering pressure fluid out of the reservoir and connecting the inlet and outlet valves and the cut-off valves such that pressure fluid from the high-pressure accumulator either is fed to the wheel bleeder connections or to the pressure fluid reservoir” define over the prior art of record.

8. A discussion of the most pertinent prior art is included for the record. Baechle et al. #1 (USP 6,193,031) shows a method for bleeding and refilling a brake system, comprising at least the following steps: connecting a bleeder bottle to the wheel bleeder connections provided on the wheel brakes, column 2, lines 32-35; connecting a bleeder device to a filling nozzle of a pressure fluid reservoir, column 2, lines 13-16; activating the pump as shown in the figures. Baechle #1 lacks the structures of the brake system as stated in the preamble and the steps of delivering pressure fluid out of the reservoir by the pump; and connecting the inlet and outlet valves and the cut-off valves such that

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pressure fluid from the high-pressure accumulator either is fed to the wheel bleeder connections or to the pressure fluid reservoir. Baechle #2 (USP 6,199,958) is relied upon to show a well known electrohydraulic brake system, as in the present invention, comprising a pedal-operated master brake cylinder 3 and a brake circuit controlled by the master brake cylinder pressure, including a pump 10 the intake side of which, by means of an intake conduit, is in communication with a pressure fluid reservoir, illustrated to be located on the master cylinder 3, and a high-pressure accumulator 12 as well as inlet 14 and outlet 6, 7 valves for the wheel brakes, as shown, connected to the brake circuit, with an inlet valve controlling the connection of the related wheel brake to the high-pressure accumulator, and an outlet valve controlling the connection of the related wheel brake to the pressure fluid reservoir by means of a non-pressurized return conduit, and with the master brake cylinder being connected to the brake circuit downstream of the inlet valves by means of a cut-off valve 11. Neither Baechle #1 nor Baechle #2 shows the steps of delivering pressure fluid out of the reservoir by the pump; and connecting the inlet and outlet valves and the cut-off valves such that pressure fluid from the high-pressure accumulator either is fed to the wheel bleeder connections or to the pressure fluid reservoir. None of the prior art teaches or suggests the steps of delivering pressure fluid out of the reservoir by the pump; and connecting the inlet and outlet valves and the cut-off valves such that pressure fluid from the high-pressure accumulator either is fed to the wheel bleeder connections or to the pressure fluid reservoir.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baechle et al. (USP 6,179,392) and Petty (USP 6,796,339) show other bleeding and filling methods for brake systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Xuan Lan Nguyen/ 3-08-07  
Primary Examiner  
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